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DIGEST OF WATER POLLUTION CONTROL LEGISLATION ... NORTH DAKOTA

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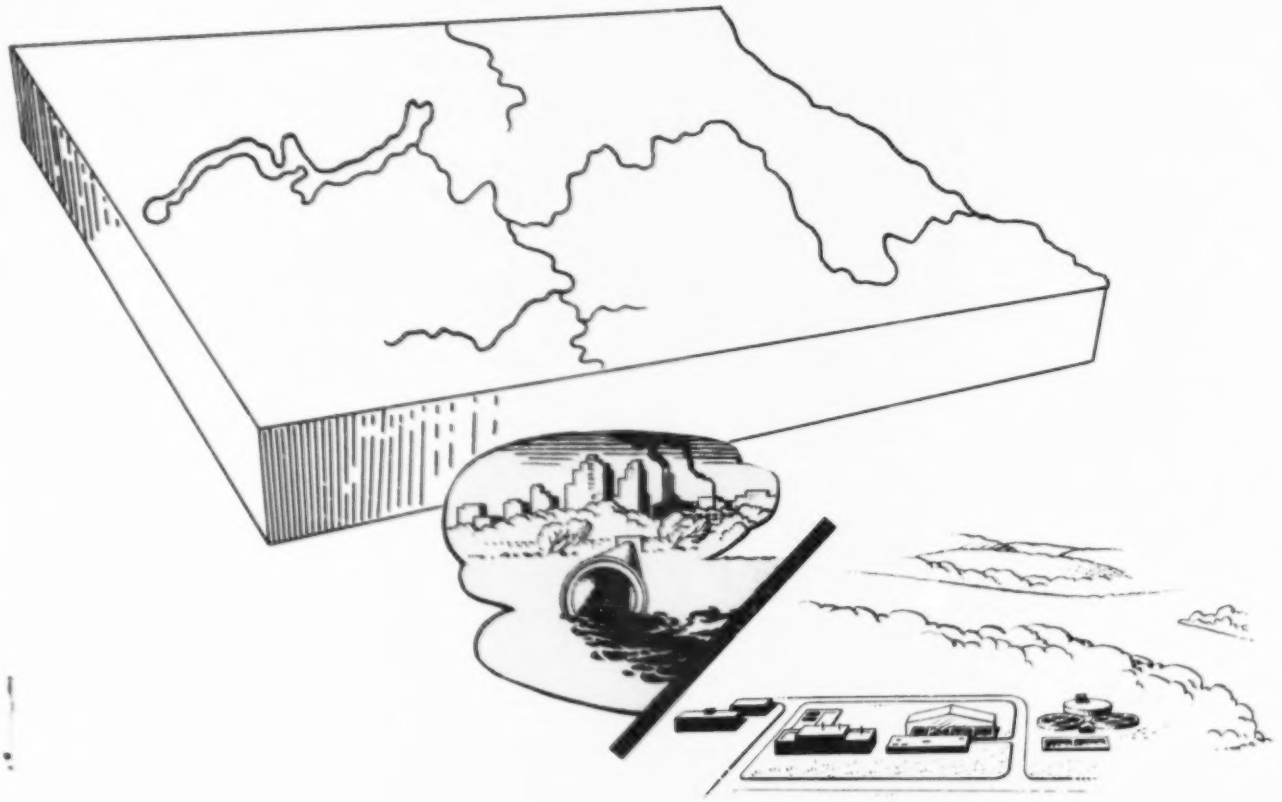

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U.S. DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
Public Health Service

Section 3 of the Federal Water Pollution Control Act (33 U.S.C. 466b) directs the Public Health Service to "encourage the enactment of improved and, so far as practicable, uniform State laws relating to the prevention and control of water pollution."

This Digest is one of a series prepared by the Public Health Service as a service to the States and others interested in these objectives. Cooperation of State officials in the preparation of these digests is gratefully acknowledged.

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DIGEST OF NORTH DAKOTA WATER POLLUTION CONTROL LEGISLATION

I. GENERAL STATEMENT

The State Water Conservation Commission and the State Department of Health act jointly in controlling water pollution in the State (1957 Supp., sec. 61-0214(2)(c)). 1/

The State Department of Health, in addition to its general power relating to the public health, is authorized to pass upon projects for the construction of municipal and industrial waste disposal facilities and municipal water works. Such approval must be granted before the project can be approved by the State Water Conservation Commission (1957 Supp., sec. 61-0221).

The Industrial Commission, through the State Geologist, is authorized to require the drilling, casing, operation and plugging of wells in such a manner as to prevent the pollution of fresh water supplies by oil, gas, or salt water (1957 Supp., sec. 38-0804(1)(c)).

II. ADMINISTRATIVE ORGANIZATION

State Water Conservation Commission

1. Composition and organization

The Commission consists of the Governor, the Commissioner of Agriculture and Labor, and five other members appointed by the Governor for six year terms. The Governor is the Chairman of the Commission. The Commission designates a Vice Chairman who must be a member of the Commission, and a Secretary who need not be a member. A majority of the members constitute a quorum (1957 Supp., secs. 61-0204, 61-0207; sec. 61-0205).

1/ Citations in this digest refer to the North Dakota Revised Code of 1943 and the 1957 Supplement thereto, unless otherwise indicated.

2. Powers and duties

The Commission is authorized to establish rules and regulations for, among other things, the control of acts which tend to pollute watercourses, for the protection of the public health and safety (1957 Supp., sec. 61-0214(2)(c)).

The approval of the Commission is required before anyone can construct any municipal or industrial waste disposal facility or municipal water works. Before the Commission grants approval for such project, it must be approved by the State Department of Health. No such facility or works may be operated or maintained except in accordance with the rules and regulations established by the Commission for the prevention of water pollution (1957 Supp., sec. 61-0221).

All State officers or departments concerned with interstate compacts which relate, among other things, to water pollution or contamination, must first submit to the Commission the plans, purposes and contemplated action and receive its approval before making any contract. The Commission is authorized to give assistance to any State agency acting with respect to any interstate compact, including the Tri-State Waters Commission (Sec. 61-0225).

The Commission is further authorized to investigate, plan, control and supervise all water projects in order to assure that there is a sufficient water flow for the prevention of stream pollution (1957 Supp., sec. 61-0214(1)(f)).

The Commission is also authorized to investigate, plan, cooperate and make all contracts or compacts necessary, in relation to waters, with the United States, any State, or the Dominion of Canada, or its departments, agencies or officers (Sec. 61-0224).

The power given to the Commission over water pollution does not deprive the State Department of Health of its jurisdiction over the prevention of water pollution. The Commission cannot declare waters to be polluted without a finding to that effect by the State Department of Health (Sec. 61-0215).

3. Preservation of existing rights and remedies

Nothing contained in this chapter shall be deemed to interfere with any vested rights to the use of water. This chapter being necessary for the welfare of the state and its citizens, it shall be construed liberally to effect the purposes thereof. (Sec. 61-0273).

The authority of the commission conferred by the provisions of this chapter shall extend and be applied to any right to the natural flow of the waters of this state which it may acquire by condemnation, purchase, exchange, appropriation, or agreement. (Sec. 61-0240).

4. Exemption from operation of Act

Any municipality which has secured approval of the State Water Commission and the State Department of Health, may discharge its sewage into any river, lake, coulee, or slough, employing such methods as may be required by the rules and regulations established by the State Water Commission and the State Department of Health for the prevention of pollution (1957 Supp., sec. 40-2204).

5. Statement of policy

The general welfare and the protection of the lives, health, property, and the rights of all the people of the State require that the conservation and control of waters in the State, public or private, navigable or unnavigable, surface or subsurface, the control of floods, and the regulation and prevention of water pollution, involve and necessitate the exercise of the

sovereign powers of the State and are affected with and concern a public purpose (Sec. 61-0201).

III. MISCELLANEOUS STATUTORY PROVISIONS RELATING TO WATER POLLUTION

It is a misdemeanor for anyone to deposit any gas tar or refuse of any gas house or factory into any public waters or into any sewer or stream emptying into any such public waters (Sec. 61-0112).

Anyone who deposits or places any dead animal, offal, or other refuse matter offensive to the sight or smell or deleterious to health, upon the banks or in the waters of any lake or stream, is guility of a misdemeanor. Violation is punishable by a fine of not less than $20.00 nor more than $100.00 (Sec. 61-0113).

The provisions of section 61-0113 apply to privies and privy vaults; stables, pens and corrals wherein are kept horses, bovines, sheep or swine and are located nearer than 60 feet from the top of the bank of such lake or stream; and any slaughterhouse, grave, graveyard, or cemetery located nearer than 80 feet from any lake or stream. This section does not prevent any City within the State from running its sewers into any river, but where there is a dam across said river within the corporate limits of the city, any such sewer must connect within such river below the dam (Sec. 61-0114).

It is unlawful for anyone to use any drug, poison, lime, medicated bait, fish berries, dynamite or other lethal or injurious substance in any waters of the State for the purpose of catching, taking, killing or destroying any fish (1957 Supp., Sec. 20-0607).

It is unlawful for anyone to deposit or cause to be deposited refuse or other matter which may prove harmful to fish or fish eggs, directly or indirectly, in any waters wherein the State or Federal Government has

deposited, or may deposit any fish, fish eggs, or fry, or in which any fish naturally abound. This section exempts municipalities which are authorized to dispose of sewage. (1957 Supp., Sec. 20-0609).

No liquid waste, either from the rendering process or from washing, is permitted to be discharged into any stream or water place, or upon the surface of the ground, nor is such liquid waste to be discharged in any manner which will contaminate any water supply or make the same unfit for human or livestock use (Sec. 36-0705). Violation of this section carries a fine of not more than $100.00 or by imprisonment in the county jail for not more than 90 days, or both (Sec. 36-0714).

IV. INTERSTATE COMPACTS

North Dakota is a member of the Tri-State Water Compact which relates to the drainage basin of the Red River of the North, for the prevention of pollution of such waters, among other things (Secs. 61-1701, 61-1702).